IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Bail Appl..No. 4922 of 2007()

CRIME NO.300 OF 2007 OF TRITHALA POLICE STATION, PALAKKAD

: PETITIONER(ACCUSED)

KANHEERI VENUGOPALAN,
S/O.KAMALAKSHI AMMA, WORKING AS DEVASWOM EXECUTIVE OFFICER, CHANDANAKKAVU DEVASWOM, KANHEERI HOUSE, KURUMBATHOOR, CHANDANAKKAVU, MALAPPURAM.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: (COMPLAINANT & STATE)

---

1. SUB INSPECTOR OF POLICE,
TRITHALA POLICE STATION, PALAKKAD DISTRICT.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4922 of 2007

Dated this the 17th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Section 498 A I.P.C. The defacto complainant is his wife. The spouses are residing separately because of some strain in the matrimony. Admittedly they have been residing separately for some period of time. No allegation under Section 498 A I.P.C has earlier been raised. Now an allegation has been raised that matrimonial cruelty of the culpable variety is committed by the petitioner in having allegedly removed their child aged 9 years, who was continuing in the custody of the mother on the basis of the orders of the Guardian's Court. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that allegations under Section 498 A I.P.C have been raised without any merit or substance. There was a dispute regarding the custody of the child. The child who is now in the custody of the mother was illtreated by the uncle of the child. Thereafter the child had returned to the custody of the petitioner. The petitioner had taken steps legally permissible to report the matter to the court. After getting intimation

of the proceedings initiated by the petitioner, false allegations are being raised against the petitioner now. It is submitted that the petitioner does not deserve to stand the trauma of undeserved arrest and detention. He may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor does not oppose the prayer for anticipatory bail and having considered all the relevant circumstances to which brief reference has already been made by me earlier, I am satisfied that this is a fit case where the extraordinary equitable discretion under Section 438 Cr.P.C can be invoked in favour of the petitioner.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 24.08.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 25.08.2007 and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 24.08.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 24.08.07.

(R.BASANT, JUDGE)

rtr/-